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May 1, 1998

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OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie R. Salas
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RE: In the Matter of CompTel's Petition on Defining Certain Incumbent LEC Affiliates as Successors, Assigns, or Comparable Carriers Under Section 251(h) of the Communications Act
CC Docket No. 98-39

Dear Ms. Salas:

Enclosed for filing are an original and 13 copies of The Southern New England Telephone Company's Comments in reference to the above captioned matter. Please date stamp the extra copy of the Comments and return it to the individual delivering this filing.

If you have any questions, please do not hesitate to call our office. Thank you for your assistance in this matter.

Sincerely,

Mark L. Evans /khrs

Mark L. Evans

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of CompTel's Petition on Defining Certain Incumbent LEC Affiliates as Successors, Assigns, or Comparable Carriers Under Section 251(h) of the Communications Act	CC Docket No. 98-39

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COMMENTS OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

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May 1, 1998

EXECUTIVE SUMMARY

The Competitive Telecommunications Association, the Florida Competitive Carriers Association, and the Southeastern Competitive Carriers Association (collectively "CompTel"). seek a declaratory ruling that any affiliate of an incumbent local exchange carrier that provides local exchange service within the incumbent's territory using common resources constitutes a "successor or assign" of the incumbent under 47 U.S.C. § 251(h)(1)(B)(ii). Alternatively, CompTel wants the Commission to establish a presumption that such an affiliate is a "comparable" carrier that has "substantially replaced" an incumbent under section 251(h)(2). As a "successor or assign" or a "comparable" carrier, the affiliate would be subject to the interconnection obligations imposed on incumbent carriers by section 251(c).

CompTel's petition should be denied. CompTel's proposals are unnecessary, completely misread the statutory language, and are contrary to the public interest.

1. There is no need for CompTel's proposals. The Commission has previously defined the term "successor or assign." In its order implementing the non-accounting safeguards of sections 271 and 272, the Commission ruled that an affiliate of a Bell operating company qualifies as an incumbent carrier's "successor or assign" only if the incumbent has transferred to the affiliate those network elements that section 251(c) requires incumbents to provide on an unbundled basis to competing local exchange carriers. As the Commission made clear, an affiliate does not become a "successor or assign" or a "comparable" carrier simply because it provides local exchange service.

2. CompTel's proposed rules misread the statute. Adopting the definition that CompTel advances would mean that any affiliate of an incumbent carrier that offers exchange service in the incumbent's territory automatically becomes an incumbent merely because it has

received something of value from the incumbent. The standard that CompTel proposes erases the statutory distinction between "affiliate" and "successor or assign." Congress did not use these terms interchangeably in the Communications Act, but made clear that some obligations apply to "affiliates" and others do not. If Congress had intended to include all "affiliates" within the definition of an incumbent carrier, it would have done so in section 251(h). Nor are CompTel's proposals necessary to prevent incumbent carriers from evading their statutory obligations. The Act, the Commission's regulations, and existing antitrust laws already sufficiently safeguard against such conduct.

CompTel's alternative request, that the Commission rewrite section 251(h)(2) so that a "comparable" carrier includes an affiliate that offers local exchange service and that has received anything of value from the incumbent, conflicts both with the provision's plain language and with the Commission's precedent. The Commission has recognized that section 251(h)(2) applies only where a local exchange carrier exercises control over the local exchange network and has supplanted an incumbent carrier. CompTel's suggestion that a such an entity is created whenever an incumbent transfers anything of value to an affiliate is simply implausible.

3. CompTel's proposals are not in the public interest. Section 251 establishes carefully calibrated levels of obligations for telecommunications carriers, imposing the most demanding obligations on incumbent local exchange carriers. To impose on affiliates all the duties imposed on incumbent local exchange carriers would contravene Congress's intent and, by limiting the local exchange choices available to consumers, would stifle competition. CompTel's proposals would also undermine ongoing state efforts to enhance competition using creative and individualized regulatory approaches.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of CompTel's Petition on Defining Certain Incumbent LEC Affiliates as Successors, Assigns, or Comparable Carriers Under Section 251(h) of the Communications Act	CC Docket No. 98-39

COMMENTS OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company ("SNET") submits these comments in response to the Petition for Declaratory Ruling or, in the Alternative, for Rulemaking filed by the Competitive Telecommunications Association, the Florida Competitive Carriers Association, and the Southeastern Competitive Carriers Association (collectively "CompTel"). In its petition, CompTel seeks a declaratory ruling that any affiliate of an incumbent local exchange carrier ("ILEC") that provides local exchange or exchange access service within the ILEC's territory using a similar brand name and common resources constitutes a "successor or assign" of the incumbent LEC under 47 U.S.C. § 251(h)(1)(B)(ii). In the alternative, CompTel requests that the Commission propose a rule establishing a rebuttable presumption that an ILEC affiliate providing wireline local exchange or exchange access service within the ILEC's service area under a similar brand name is a "comparable" carrier under section 251(h)(2) and thus is subject to the interconnection obligations of ILECs under section 251(c).

SNET opposes this petition. The Commission has already ruled that an affiliate does not become a "successor or assign" of an ILEC until that affiliate owns or controls the ILEC's local exchange network facilities. CompTel's proposal would completely obscure the statutory distinction between "affiliate" and "successor or assign" and could jeopardize the public's interest in encouraging innovative strategies to enhance local competition.

ARGUMENT

Section 251(c) of the Telecommunications Act of 1996 imposes a number of duties specifically on ILECs. Under section 251(h)(1), an ILEC is defined as a local exchange carrier that provided local exchange service on February 8, 1996, and either (i) was a member of the National Exchange Carrier Association at that time or (ii) is such a member's "successor or assign." 47 U.S.C. § 251(h)(1). Section 251(h)(2) also provides that a "comparable" carrier that has "substantially replaced" an incumbent LEC may, by rule, be treated as an incumbent. Id. § 251(h)(2).

CompTel accuses incumbent carriers of trying to evade their statutory obligations by offering local exchange services in the incumbent's territory through corporate affiliates. CompTel Pet. at 10. According to CompTel, the elaborate safeguards set forth in the Act and the rules that the Commission has already adopted are insufficient to prevent incumbent carriers from acting illegally. CompTel urges the Commission to expand the definition of "incumbent" carrier so that, in essence, any affiliate of an incumbent carrier that offers telephone exchange service in the incumbent's region would be subject to all the requirements imposed on the incumbent itself. Alternatively, CompTel wants the Commission to initiate a rulemaking to provide that such an affiliate be treated as a "comparable" carrier under section 251(h)(2).

CompTel's proposal directly conflicts with the interpretation of "successor or assign" that the Commission has already adopted. Moreover, it would make no sense for the Commission to extend the definition of these terms to include all affiliates of incumbent carriers that offer local exchange service. CompTel's interpretation of section 251(h)(2) is inconsistent with the statutory text, the Commission's prior orders, and sound telecommunications policy. The Commission should deny CompTel's petition.

I. COMPTEL'S PROPOSAL IS UNNECESSARY

In its order implementing the non-accounting safeguards of sections 271 and 272, the Commission set forth the criteria for assessing whether an affiliate is a "successor or assign" of a Bell operating company for purposes of the Telecommunications Act.[1] The meaning of "successor or assign" in the definition of an ILEC is the same as in the definition of a Bell operating company.[2] Since there has been no change in the facts regarding this issue, there is no need for the Commission to revisit a question that it already has answered.

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[1]See Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, 11 FCC Rcd 21905, 22054-58 [¶¶ 309-317] (1996) aff'd, Bell Atlantic Tel. Cos. v. FCC, 131 F.3d 1044 (D.C. Cir. 1997) ("Non-Accounting Safeguards Order").

[2]Section 153(4) defines a Bell operating company as the twenty companies listed in subsection (A), as well as "any successor or assign of any such company." 47 U.S.C. § 153(4)(B) (emphasis added). Because the normal rule of statutory construction is that Congress intends that identical words used in different parts of the same act have the same meaning, Gustafson v. Alloyd Co., Inc., 513 U.S. 561, 570 (1995); Department of Revenue Ore. v. ACF Industries, 510 U.S. 332, 342 (1994); Atlantic Cleaners & Dyers, Inc. v. United States, 286 U.S. 427, 433 (1932), the words "successor or assign" have the same meaning for both sections 153(4) and 251(h).

Section 272 of the Telecommunications Act imposes structural and non-structural requirements on the relationship between Bell operating companies and their long-distance and manufacturing affiliates. Subsections (a) and (e) of section 272 impose certain obligations on Bell operating companies and on those Bell company affiliates that qualify as ILECs.[3] So, for example, Bell companies and their ILEC affiliates may not engage in manufacturing activities or provide interLATA telecommunications and information services except through separate affiliates, 47 U.S.C. § 272(a), and they may not favor themselves or their affiliates with the provision of exchange access and other services provided to interexchange carriers, id. § 272(e). In the Non-Accounting Safeguards Order, the Commission addressed the concern that a Bell company might try to evade its section 251 and 272 obligations by transferring its local exchange and exchange access facilities and capabilities to an affiliate. See Non-Accounting Safeguards Order, 11 FCC Rcd at 22050, 22054 [¶¶ 301, 309].

The Commission concluded that the Act's requirements are not so easily circumvented. Noting that the Act imposes on a Bell company's "successor or assign" the same requirements that it imposes on the Bell company itself, the Commission ruled that "if a BOC transfers to an affiliated entity ownership of any network elements that must be provided on an unbundled basis pursuant to section 251(c)(3), we will deem such entity to be an 'assign' of the BOC under section 3(4) of the Act with respect to those network elements." Non-Accounting Safeguards

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[3]In contrast, subsection (c) of section 272 applies only to Bell operating companies, which would include their incumbent LEC affiliates only if these affiliates qualify as "successor or assigns" of the Bell company. Non-Accounting Safeguards Order, 11 FCC Rcd at 22054 [¶ 309] ("unlike sections 272(a) and (e), section 272(c) does not apply to BOC affiliates merely because they qualify as incumbent LECs").

Order, 11 FCC Rcd at 22054 [¶ 309] (emphasis added). The transfer of the ownership of network elements is therefore the key to determining whether an affiliate is a "successor or assign" of an incumbent LEC. The Commission emphasized that an affiliate does not become a "successor or assign" or a "comparable" carrier merely because it provides local exchange service. Id. at 22055-56 [¶ 312]. Furthermore, the Commission has promulgated a regulation defining "successor or assign" as an entity to which a BOC has transferred "ownership of any network elements that must be provided on an unbundled basis pursuant to section 251(c)(3)" and specifying that an affiliate does not become a successor or assign "solely because it obtains network elements from the BOC pursuant to 251(c)(3) of the Act." 47 CFR § 53.207 (emphasis added).

Although the Commission addressed the "successor or assign" question in the context of section 272, it made clear that the same analysis applies to section 251. See Non-Accounting Safeguards Order, 11 FCC Rcd at 22054 [¶ 309] ("there are . . . legitimate concerns that a BOC could potentially evade the section 272 or 251 requirements by . . . transferring facilities to another affiliate") (emphasis added). Indeed, a comparison of these provisions shows that the issue is the same in both contexts. Section 251(c) imposes explicit requirements only on ILECs. Similarly, subsections (a) and (e) of section 272 impose requirements on Bell companies and on those Bell company affiliates that, by virtue of their being subject to section 251(c)'s unbundling requirements, are also ILECs. In other words, in section 251 and subsections (a) and (e) of

section 272, an entity is subject to the obligations set forth in those provisions only if it qualifies as an ILEC under section 251(h).[4]

Thus, the central question, both here and in the Non-Accounting Safeguards Order, is the same: what makes an incumbent LEC's affiliate a "successor or assign" such that the affiliate is subject to all of the requirements imposed on an incumbent LEC? The Commission has already provided the answer: an affiliate of an incumbent LEC becomes a "successor or assign" only when it becomes the owner of those "network elements" that section 251(c)(3) requires it to provide on an unbundled basis. 11 FCC Rcd at 22055 [¶ 311].

II. COMPTEL'S PROPOSAL IS ILLOGICAL

A. An ILEC Affiliate is Not the Same as a Successor or Assign

CompTel proposes that the Commission define a "successor or assign" as any affiliate that offers telephone exchange service in an incumbent's territory, under a brand name similar to the incumbent's, using any resources transferred from the incumbent. Although CompTel acknowledges that the Commission has already ruled that a "successor or assign" is an entity to which an incumbent Bell company has transferred "network assets," CompTel Pet. at 10, it nevertheless suggests that the Commission should conclude that "an affiliate to which an ILEC has transferred anything that would be of value in providing in-region local service, such as

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[4]Indeed, the Commission has already squarely held that State commissions have no power at all to apply the incumbent LEC's statutory duties to companies unless they meet that definition: "we find that states may not unilaterally impose on non-incumbent LECs obligations the 1996 Act expressly imposes only on incumbent LECs." Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 15499, 16110 [¶ 1248] (1996) ("Local Competition Order"), modified on reconsideration, 11 FCC Rcd 13042 (1996), vacated in part, Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), cert. granted sub nom. AT&T Corp. v. Iowa Utils. Bd., 118 S. Ct. 879 (1998).

brand name, capital, or personnel" should be deemed a "successor or assign" or a "comparable" carrier under section 251(h). Id. at 11 (emphasis added).

The standard that CompTel proposes is so broad that it would completely obliterate the distinction between "affiliate" and "successor or assign." The word "affiliate" is a defined term in the Communications Act. See 47 U.S.C. § 153(1) (affiliate "means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person"). Elsewhere in the 1996 Act — including in section 251 itself — Congress repeatedly refers to "affiliates" of "local exchange carriers."[5] If Congress had intended to include all "affiliates" within the definition of an ILEC, it would have done so in section 251(h). The fact that it did not do so significantly undercuts the plausibility of CompTel's argument.[6]

Since an affiliate always receives something from the corporate entity that creates it, CompTel's position boils down to a rule that, whenever an incumbent's affiliate offers local exchange service — whether using its own facilities, reselling the ILEC's services, or providing service through some combination of unbundled network elements — the affiliate automatically becomes an incumbent itself. Not only does this make no sense — how could an affiliate that is

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[5]See, e.g., 47 U.S.C. § 251(c)(2)(C) (discussing the duty to provide interconnection at a level "at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection"); id. § 153(15) (defining "dialing parity" as a situation where a "person that is not an affiliate of a local exchange carrier" is able to provide service in a certain manner); id. § 543(*l*)(1)(D) (addressing the situation where a "local exchange carrier or its affiliate . . . offers video programming services").

[6]See Energy Research Found. v. Defense Nuclear Facilities Safety Bd., 917 F.2d 581, 583 (D.C. Cir. 1990) ("when [Congress] employs different words, it usually means different things") (internal quotation omitted).

only a reseller, for example, comply with the ILEC unbundling requirements? — but, as discussed above, the Non-Accounting Safeguards Order explicitly rejected this notion. See 11 FCC Rcd at 22055 [¶ 312] (ruling that an affiliate should not be "deemed an incumbent LEC . . . solely because it offers local exchange services").[7]

CompTel claims that expanding the definition of "successor or assign" is necessary to prevent incumbent carriers from evading their section 251(c)(4) resale obligations. CompTel Pet. at 6. CompTel speculates, for example, that an incumbent might withdraw its provision of certain retail services and transfer those operations to an affiliate not subject to the resale obligations imposed on incumbents. Id. But the Commission addressed this issue in the Local Competition Order, refusing to impose limitations on the ability of any incumbent LEC to withdraw retail services. "[W]e conclude that our general presumption that incumbent LEC restrictions on resale are unreasonable does not apply to incumbent LEC withdrawal of service. States must ensure that procedural mechanisms exist for processing complaints regarding incumbent LEC withdrawals of services."[8] The Commission has therefore already explained

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[7]CompTel's assertion that an affiliate that offers local exchange service in an incumbent's territory should be deemed a "dominant carrier" is equally without merit. CompTel Pet. at 8. The Commission's rules define a "dominant carrier" as "a carrier found by the Commission to have market power (i.e., power to control prices)." 47 CFR § 61.3(o). Simply because an affiliate offers local exchange service cannot automatically mean that the affiliate has the power to control prices.

[8]Local Competition Order, 11 FCC Rcd at 15977-15978 [¶ 968].

that, whether an incumbent LEC may withdraw from the business of providing retail local exchange services is a matter best left to State commissions to resolve.[9]

Moreover, detailed safeguards set forth in the Communications Act, the Commission's regulations, and general antitrust laws already proscribe discriminatory conduct by an incumbent carrier. "[I]mproper cost allocation and discrimination are prohibited by existing Commission rules and sections 251, 252, and 272 of the 1996 Act, and . . . predatory pricing is prohibited by the antitrust laws." Non-Accounting Safeguards Order, 11 FCC Rcd at 22057 [¶ 315]. An incumbent carrier may not favor an affiliated entity that offers local exchange service over unaffiliated local exchange carriers. The affiliate must obtain access to the incumbent's facilities, if necessary, in the same way that other competitive local carriers do — by entering into interconnection agreements that contain nondiscriminatory terms, which are subject to approval by the State commission and review in federal district court. See 47 U.S.C. § 252(e). Indeed, the 1996 Act specifically requires an incumbent to make its facilities available to other carriers on the same terms and conditions that it offers to its affiliates. See id. § 252(i). Such arm's-length transactions do not transform an ILEC affiliate into a successor or assign any more than they

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[9]Indeed, SNET's experience in Connecticut is instructive. After extensive review and hearings, the Connecticut Department of Public Utility Control concluded that "an ILEC is under no legal obligation to make generally available any telecommunications technology or network infrastructure at retail unless it deems it to be in its own best interest. Accordingly, an ILEC is free to offer all, some, or none of its capabilities as a retail service offering." Decision, DPUC Investigation of the Southern New England Telephone Co. Affiliate Matters Associated with the Implementation of Public Act 94-83, Docket No. 94-10-05, at 50 (Conn. DPUC June 25, 1997) ("SNET Restructuring Decision"). AT&T and MCI challenged the DPUC's decision in federal district court. In an oral ruling, the court granted summary judgment against the plaintiffs; the court is expected to issue a written decision in this case shortly. See Transcript, AT&T/MCI v. Southern New England Telephone Company, Civil Action No. 3:97-CV-1601 at 4-5 (D. Conn. Jan. 21, 1998).

would make any competing carrier that resells ILEC services or provides services over the ILEC's unbundled network elements a "successor or assign" of the ILEC.

CompTel tries to shore up its argument by contending that its definition of "successor or assign" comports with the "common understanding" of these terms as set forth in three labor-law cases. CompTel Pet. at 9-10. These cases all concern the point at which an employer becomes a "successor" company subject to the collective bargaining obligations imposed on its predecessor; these cases certainly do not support CompTel's definition of "successor corporation" as an entity receiving anything of value from the predecessor company. Instead, they endorse an approach that is "primarily factual in nature," "based on a totality of the circumstances of a given situation," and focused on "whether the new company has 'acquired substantial assets of its predecessor and continued, without interruption or substantial change, the predecessor's business operations.'" Fall River Dyeing & Finishing Corp. v. NLRB, 482 U.S. 27, 43 (1987) (emphasis added). Contrary to CompTel's premise, these cases conclude that, given the fact-intensive nature of this analysis, "[t]here is, and can be, no single definition of 'successor' which is applicable in every legal context." Howard Johnson Co. v. Detroit Local Joint Executive Board, 417 U.S. 249, 262 n.9 (1974).

B. An ILEC Affiliate is Not the Same as a Comparable Carrier

CompTel proposes, in the alternative, that the Commission establish a rule that an incumbent carrier's affiliate that provides local service in the incumbent's territory and that has received "anything of value" from the incumbent is a "comparable" carrier under section 251(h)(2). CompTel Pet. at 13-15. The rule that CompTel proposes distorts the provision's language beyond recognition. Section 251(h)(2) authorizes the Commission to treat a local

exchange carrier as an incumbent when the carrier "occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in [section 251(h)(1)]"; the carrier has "substantially replaced an incumbent local exchange carrier described in [section 251(h)(1)]"; and "such treatment is consistent with the public interest, convenience, and necessity and the purposes of [section 251]." 47 U.S.C. § 251(h)(2).

This Commission has recognized that an ILEC is an entity that "control[s] the . . . local exchange network" and possesses substantial "economies of density, connectivity, and scale" such that, in the absence of "compliance with the obligations of section 251(c), [it] can impede the development of telephone exchange service competition."[10] The converse is also true — a LEC that does not control the network simply cannot be deemed "comparable" to an incumbent. In addition, the Commission has already concluded that a carrier typically must have "supplanted" or "take[n] the place of" a section 251(h)(1) incumbent LEC before it may itself be deemed an incumbent under section 251(h)(2).[11]

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[10]Declaratory Ruling and Notice of Proposed Rulemaking, In re Guam Public Utilities Commission, 12 FCC Rcd 6925, 6941 [¶ 27] (1997).

[11]Id. at 6942 [¶ 28]. The Commission proposed treating the Guam Telephone Authority, which provides virtually all of Guam's local exchange service, as an incumbent carrier under section 251(h)(2), even though the Authority had not technically "supplanted" a section 251(h)(1) incumbent carrier. Id. at 6947 [¶ 38]. This conclusion resulted from the unique circumstances of local exchange service in Guam. There was no section 251(h)(1) incumbent carrier in Guam when the Act was passed, since the Guam Telephone Authority did not belong to the National Exchange Carriers Association. Since no section 251(h)(1) incumbent existed, the Authority could not be deemed to have "substantially replaced" such an entity. Id. at 6942 [¶ 28]. Nevertheless, because permanently exempting Guam's dominant provider of local exchange and exchange access services from the requirements of section 251(c) would be "demonstrably at odds" with Congress's objectives, the Commission proposed interpreting section 251(h)(2) as

CompTel's proposed rule is nonsensical. A simple transfer of "anything of value" from an incumbent to an affiliate cannot mean that the affiliate automatically controls the local exchange market or that it has supplanted a section 251(h)(1) incumbent carrier. There is thus no basis for undertaking the rulemaking that CompTel proposes.

III. COMPTEL'S PROPOSAL IS ILL-ADVISED

Subsections (a), (b), and (c) of section 251 impose a "three-tiered hierarchy of escalating obligations" on telecommunications carriers.[12] "Section 251(a) imposes relatively limited duties on all telecommunications carriers; section 251(b) imposes more extensive duties on telecommunications carriers that are LECs; and section 251(c) imposes the most extensive duties on LECs that are incumbent LECs." Imposing the rigorous obligations of section 251(c) on "a carrier that is not an incumbent LEC would contravene the carefully-calibrated regulatory regime crafted by Congress."[13]

CompTel's proposal not only would conflict with Congress's intent, but also would impose potentially onerous burdens on the affiliates of incumbent carriers by hindering their ability to compete effectively, thereby harming consumers. The creation of new affiliates to offer local exchange services furthers diversity in local telecommunications markets. The greater this diversity, the more opportunities there are for the kinds of experimentation and innovation

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including "any LEC that provides telephone exchange service to all or virtually all of the subscribers in its service area, where . . . no NECA member served the area at issue as of [February 8, 1996]." Id. at 6947 [¶ 38].

[12]Id., at 6937 [¶ 19].

[13]Id. at 6937-38 [¶ 19].

that advance the opening of the telecommunications industry to competition. See Non-Accounting Safeguards Order, 11 FCC Rcd at 22057 [¶ 315] ("the increased flexibility resulting from the ability to provide both interLATA and local services from the same entity serves the public interest, because such flexibility will encourage section 272 affiliates to provide innovative new services"). In the end, CompTel's proposed rules would wind up stifling competition in the local telecommunications market.

Finally, as State commissions throughout the country contemplate how best to facilitate and nurture local competition, the particular needs and experiences within each state are likely to give rise to a wide range of regulatory experiments. In Connecticut, for example, the Department of Public Utility Control approved SNET's proposal to separate its wholesale and retail businesses; it did so after having "reviewed the proposal to determine its impact on the development of broader competition in Connecticut's telecommunications market, its consistency with relevant state and federal laws and regulations, and its impact on the Connecticut public."[14] In concluding that SNET's affiliate was not a "successor or assign," the Department found "that the structural separation of wholesale and retail market activities by SNET and the consequent realignment of market responsibilities between the Telco and [the affiliate] is not precluded by current state or federal law, continues to be a managerial prerogative of the corporate Board of Directors and presents no imminent threat to the development of competition in Connecticut."[15]

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[14]SNET Restructuring Decision at 38.

[15]Id. at 49.

These inherently local, fact-intensive judgments could be upended by a federal rulemaking that would be both misguided and unnecessary. This Commission has already recognized "that Congress did not intend for us needlessly to disrupt the pro-competitive actions some states already have taken";[16] accepting CompTel's proposal, however, would do just that.

CONCLUSION

For the reasons stated above, SNET respectfully urges the Commission to deny CompTel's petition.

Respectfully submitted,

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May 1, 1998

[16] Local Competition Order, 11 FCC Rcd at 15531 [¶ 62].

CERTIFICATE OF SERVICE

I, Holly R. Schroeder, hereby certify that on this 1st day of May 1998, copies of the Comments of The Southern New England Telephone Company were served upon the parties listed below either by hand delivery as indicated by an asterisk or first-class mail, postage prepaid.

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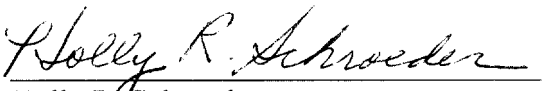

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